

REMARKS

This responds to the Office Action mailed August 20, 2007. Claims 1-3, 5, 6, 8, 18-23, and 25-28 have been amended and claims 29-31 have been added. Claims 1-31 remain in the application.

In regards to the Examiner's request for a certified copy of either PCT/AU04/2004 or Australian application No. 2003903188 (Office Action at p. 2), Applicants traverse the request. The present application represents the U.S. National Phase of PCT/AU2004/000772, and does not separately claim foreign priority based on the Australian application, as suggested by the Examiner. A certified copy of priority Australian application No. 2003903188 was transmitted to the International Bureau during the International Phase, as noted in the attached copy of form PCT/IB/3004 issued by the International Bureau. In accordance with MPEP § 1828, no further certified copy of the original application should be required by the U.S. Patent and Trademark Office. As to the PCT application itself as a "priority" document, domestic priority is claimed via 35 U.S.C. § 371 as acknowledged by the U.S. Patent and Trademark Office on October 19, 2006 as acknowledged on the filing receipt of this application.

In regards to the specification, typographical errors were discovered during preparation of this response. Those typographical errors have been corrected by way of amendments to the specification, which introduce no new subject matter.

Claims 1, 7, 9, 13, 17 and 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,375,385 to Kennedy ("Kennedy").

Claim 1 has been amended to recite an elongate body formed of a single sheet of spring steel, the body including a body front face and a body rear face, with the

body front and rear faces transversely extending generally parallel to the transverse axis, and a surface coating applied to the body front and rear faces respectively providing an exposed front face and an exposed rear face of the post. The device disclosed in Kennedy does not include an elongate body formed of a single sheet of spring steel, but rather a body formed of a plurality of flexible spring steel elements (12). Moreover, Kennedy fails to disclose the application of a surface coating on the body front and rear faces respectively providing an exposed front face and an exposed rear face of the post.

Accordingly, Applicants respectfully submit that amended independent claim 1 recites a combination of elements not disclosed in the cited prior art and the claim should therefore be allowed.

Claims 2-4, 8, 10, 18-21 and 25-28 stand rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Kennedy. Each of claims 2-4, 8, 10, 18-21 and 25-28 directly or indirectly depends from allowable independent claim 1. In this regard, the rejection of these claims under 35 U.S.C. § 102(b) fails since each of these claims includes all elements of independent claim 1 and thus each recites a combination of elements not disclosed in Kennedy.

In regards to the alternative rejection of these claims under 35 U.S.C. § 103(a), Applicants respectfully traverse the rejection, since contrary to Examiner's assertion, one of ordinary skill in the art would not modify the device disclosed in Kennedy to include a body formed of a single sheet of spring steel, as recited in claim 1. To the contrary, Kennedy teaches away from such structure. The Kennedy disclosure reinforces throughout the specification that multiple laminated spring steel elements are required (Kennedy at col. 2, lines 26-39, and col. 3, lines 1-3, and 15-54). In this

regard, therefore, Kennedy teaches away from a post made of a single sheet of spring steel. Further, a modification of the device disclosed in Kennedy to include a surface coating on the body front and rear faces of the flexible elements (12) would not provide an exposed front face and an exposed rear face of the roadside post, as recited in claim 1 of the application. The arrangement of the flexible elements (12) is such that, even if they were coated as recited in amended claim 1 of the application, they would each have either its front face and/or its rear face facing an adjacent element (12).

Accordingly, Applicants respectfully submit that each of claims 2-4, 8, 10, 18-21 and 25-28 recites a combination of elements not disclosed in the prior art of record and the claims should therefore be allowed.

Claims 5, 6, 11, 12 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy in view of U.S. Patent No. 4,486,117 to Blau ("Blau"). Each of claims 5, 6, 11, 12 and 14 directly or indirectly depends from allowable independent claim 1. Blau does not cure the deficiencies discussed above in regards to amended independent claim 1. Accordingly, Applicants respectfully submit that each of claims 5, 6, 11, 12 and 14 recites a combination of elements not disclosed in the prior art of record and the claims should therefore be allowed.

Claims 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy in view of Blau and further in view of U.S. Patent Publication No. 2005/0196235 to Strick ("Strick"). Each of claims 22 and 23 indirectly depends from allowable independent claim 1. Strick does not cure the deficiencies discussed above in regards to amended independent claim 1. Accordingly, Applicants respectfully submit that each of claims 22 and 23 recites a combination of elements not disclosed in the prior art of record and the claims should therefore be allowed.

Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy in view of U.S. Patent No. 5,957,425 to Conway et al. ("Conway"). Each of claims 15 and 16 indirectly depends from allowable independent claim 1. Conway does not cure the deficiencies discussed above in regards to amended independent claim 1. Accordingly, Applicants respectfully submit that each of claims 15 and 16 recites a combination of elements not disclosed in the prior art of record and the claims should therefore be allowed.

Claim 2 has been amended to correct a typographical error discovered during preparation of this response. Claim 6 has been amended such that language therein is consistent with the language of amended claim 1. Claims 19, 20, and 23 have been amended to correct antecedent basis problems also discovered during preparation of this response. Claims 3, 5, 8, 18, 21, 22, and 25-28 have been amended to be consistent with the language of amended claim 1 and other amended claims. No new matter is introduced by way of any of these amendments.

Claims 29-31 have been added to the application. No new subject matter is introduced by way of these claims, as they are fully supported in the specification. See Application at FIGS. 5 and 10 and para. [0012]. Moreover, as each of these claims directly or indirectly depends from allowable independent claim 1, these claims are allowable at least for the reasons discussed above in regards to claim 1.

Conclusion

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this effect is earnestly solicited. If the Examiner believes any matter requires further

discussion, the Examiner is respectfully invited to telephone the undersigned attorney so that the matter may be promptly resolved.

Applicants do not believe that any fees are due in connection with this response other than the extension fee and excess claims fee. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

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